

hearing. Such proceedings shall be convened in the discretion of the DOE, consistent with the requirements of the FEAA.

**§ 205.171 Conferences.**

(a) The DOE in its discretion may direct that a conference be convened, on its own initiative or upon request by a person, when it appears that such conference will materially advance the proceeding. The determination as to who may attend a conference convened under this subpart shall be in the discretion of the DOE, but a conference will usually not be open to the public.

(b) A conference may be requested in connection with any proceeding of the DOE by any person who might be aggrieved by that proceeding. The request may be made in writing or verbally, but must include a specific showing as to why such conference will materially advance the proceeding. The request shall be addressed to the DOE office that is conducting the proceeding.

(c) A conference may only be convened after actual notice of the time, place, and nature of the conference is provided to the person who requested the conference.

(d) When a conference is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the conference, but will be treated as if submitted in the regular course of the proceedings. A transcript of the conference will not usually be prepared. However, the DOE in its discretion may have a verbatim transcript prepared.

(e) Because a conference is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the DOE in its discretion determines that such would be advisable.

**§ 205.172 Hearings.**

(a) The DOE in its discretion may direct that a hearing be convened on its own initiative or upon request by a person, when it appears that such hearing will materially advance the proceedings. The determination as to who may attend a hearing convened under

this subpart shall be in the discretion of DOE, but a hearing will usually not be open to the public. Where the hearing involves a matter arising under part 213, the Director of Oil Imports shall be notified as to its time and place, in order that he or his representative may present views as to the issue or issues involved.

(b) A hearing may only be requested in connection with an application for an exception or an appeal. Such request may be by the applicant, appellant, or any other person who might be aggrieved by the DOE action sought. The request shall be in writing and shall include a specific showing as to why such hearing will materially advance the proceeding. The request shall be addressed to the DOE office that is considering the application for an exception or the appeal.

(c) The DOE will designate an agency official to conduct the hearing, and will specify the time and place for the hearing.

(d) A hearing may only be convened after actual notice of the time, place, and nature of the hearing is provided both to the applicant or appellant and to any other person readily identifiable by the DOE as one who will be aggrieved by the DOE action involved. The notice shall include, as appropriate:

(1) A statement that such person may participate in the hearing; or

(2) A statement that such person may request a separate conference or hearing regarding the application or appeal.

(e) When a hearing is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the hearing, but will be treated as if submitted in the regular course of the proceedings. A transcript of the hearing will not usually be prepared. However, the DOE in its discretion may have a verbatim transcript prepared.

(f) The official conducting the hearing may administer oaths and affirmations, rule on the presentation of information, receive relevant information, dispose of procedural requests, determine the format of the hearing, and otherwise regulate the course of the hearing.

## Department of Energy

## § 205.190

(g) Because a hearing is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the DOE in its discretion determines that such would be advisable.

[39 FR 35489, Oct. 1, 1974, as amended at 40 FR 36557, Aug. 21, 1975]

### § 205.173 Public hearings.

(a) A public hearing shall be convened incident to a rulemaking:

(1) When the proposed rule or regulation is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses; or

(2) When the DOE determines that a public hearing would materially advance the consideration of the issue. A public hearing may be requested by any interested person in connection with a rulemaking proceeding, but shall only be convened on the initiative of the DOE unless otherwise required by statute.

(b) A public hearing may be convened incident to any proceeding when the DOE in its discretion determines that such public hearing would materially advance the consideration of the issue.

(c) A public hearing may only be convened after publication of a notice in the FEDERAL REGISTER, which shall include a statement of the time, place, and nature of the public hearing.

(d) Interested persons may file a request to participate in the public hearing in accordance with the instructions in the notice published in the FEDERAL REGISTER. The request shall be in writing and signed by the person making the request. It shall include a description of the person's interest in the issue or issues involved and of the anticipated content of the presentation. It shall also contain a statement explaining why the person would be an appropriate spokesperson for the particular view expressed.

(e) The DOE shall appoint a presiding officer to conduct the public hearing. An agenda shall be prepared that shall provide, to the extent practicable, for the presentation of all relevant views by competent spokespersons.

(f) A verbatim transcript shall be made of the hearing. The transcript, together with any written comments

submitted in the course of the proceeding, shall be made available for public inspection and copying in the public docket room, as provided in § 205.15.

(g) The information presented at the public hearing, together with the written comments submitted and other relevant information developed during the course of the proceeding, shall provide the basis for the DOE decision.

### Subpart N—[Reserved]

### Subpart O—Notice of Probable Violation, Remedial Order, Notice of Proposed Disallowance, and Order of Disallowance

AUTHORITY: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385, Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70, Department of Energy Organization Act, Pub. L. 95-91, as amended, Pub. L. 95-620; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.

SOURCE: 44 FR 7924, Feb. 7, 1979, unless otherwise noted.

### § 205.190 Purpose and scope.

(a) This subpart establishes the procedures for determining the nature and extent of violations of the DOE regulations in parts 210, 211, and 212 and the procedures for issuance of a Notice of Probable Violation, a Proposed Remedial Order, a Remedial Order, an Interim Remedial Order for Immediate Compliance, a Remedial Order for Immediate Compliance, a Notice of Probable Disallowance, a Proposed Order of Disallowance, an Order of Disallowance, or a Consent Order. Nothing in these regulations shall affect the authority of DOE enforcement officials in coordination with the Department of Justice to initiate appropriate civil or criminal enforcement actions in court at any time.

(b) When any report required by the ERA or any audit or investigation discloses, or the ERA otherwise discovers, that there is reason to believe a violation of any provision of this chapter, or